

# INFORMATION LETTER

## NATIONAL CANNERS ASSOCIATION

No. 1742

Washington, D. C.

August 8, 1959

### Bills on Migratory Labor

Hearings by a specially-appointed Senate Subcommittee on Migratory Labor were held August 7 on four bills:

S. 1085 (McNamara), to extend the wage and hour law to farm employers who use more than 2,244 man-days of hired farm labor a year;

S. 1778 (Javits) and S. 2498 (Williams of N. J.), to provide for federal licensing of crew leaders; and

S. 2141 (McNamara), to eliminate the child labor exemption which permits the employment of minors under 16 in agriculture.

Members of the special subcommittee are Senators Williams (N. J.), chairman, Murray (Mont.), Randolph (W. Va.), Goldwater (Ariz.), and Dirksen (Ill.).

Witnesses at the hearing were James O'Connell, Under Secretary of Labor, and Nathan Koenig of the USDA.

Plans for future hearings have not yet been announced.

### Canned Peas for USDA

USDA announced on August 6 the purchase of 396,578 cases of No. 10 cans of peas with funds appropriated under the National School Lunch Act.

Purchases were made in the following states: Illinois 148,248 cases; Maryland 8,000 cases, New York 44,875 cases, Pennsylvania 6,000 cases, Oregon 30,000 cases, Utah 2,900 cases, Washington 25,000 cases, and Wisconsin 131,555 cases.

Prices ranged from \$2.74 to \$3.345. Transportation costs and discounts for prompt payment were taken into consideration by USDA in making awards.

### Migrant Worker Transportation

The Interstate Commerce Commission has amended its regulations governing safety of motor carriers for transporting migrant workers, so as to provide for putting vehicles "out of service" because of their mechanical condition.

### Court Enforcement of FTC Cease-and-Desist Orders

On July 23, President Eisenhower signed Public Law 86-107, amending the Clayton Act to make final cease-and-desist orders issued under that Act. Any person who violates an order after it becomes final may now be held liable to a civil penalty of \$5,000 for each violation, with each day of a continuing violation being deemed a separate offense.

Up to this time, violations of Clayton Act cease-and-desist orders did not immediately subject the respondent to any legal penalties. Instead, the Federal Trade Commission was obliged to prove before a federal court that the order had been violated. If the court agreed, it would issue its own order, and not until the respondent could be shown again to have violated that order, would he be subject to legal penalties.

In proposing that this enforcement procedure be changed, the Federal Trade Commission argued that the Clayton Act permitted a person to engage in the same illegal practice three times before effective legal penalties could be imposed.

The amended procedure now provides that a cease-and-desist order becomes final and conclusive 60 days after its issuance, unless the respondent seeks judicial review within that period. If judicial review is sought, the order becomes final upon the court's affirmance of the order. Once the order is final, either through lapse of time or by court affirmance, its violation is punishable by the fine described above, and the respondent is precluded from challenging the correctness of the order.

An additional provision of the amendment permits the FTC, after

notice and opportunity for hearing, to alter or modify its order when changed conditions of fact or law, or the public interest, require such action.

Some question has arisen with regard to the effect of Public Law 86-107 upon cease-and-desist orders issued prior to the effective date of the amendment. Section 2 of the law provides that the old procedure shall apply to court proceedings for enforcement or review of an order initiated before the date of enactment of the law.

The law makes no specific reference, however, to orders issued before July 23, 1959, for which court proceedings for enforcement or review had not been initiated before the date of enactment. Since the terms of the law do not limit its effect to future orders, it may be argued that the new enforcement procedures apply to all Clayton Act cease-and-desist orders, no matter when they were issued. But such an interpretation would have the effect of denying judicial review to prior orders that were not appealed by respondents within 60 days from the date of service.

The Federal Trade Commission in a press release of July 28 attempted to provide an answer to this apparent dilemma. This states: "Respondents to outstanding orders will have 60 days from the date of enactment, July 23, 1959, within which to petition for court review, and in the event court review proceedings are not instituted such orders will become final upon the expiration of that period." There is no such provision in Public Law 86-107, and it remains to be seen whether the courts will accept this effort by an administrative agency to rewrite an Act of Congress, presumably to remedy a constitutional defect, and deny review to respondents under prior orders who did not petition for review by September 21, 1959.

There is a further question as to whether respondents who signed consent orders, agreeing not to contest the validity of the order, are subject immediately to the new enforcement procedures of Public Law 86-107.

## Wholesale Distributor Stocks of Canned Foods

A report on stocks of 23 canned food items in the hands of wholesale distributors, including retail multi-unit organizations, on July 1 has been issued by the Bureau of the Census, U. S. Department of Commerce.

	July 1 1958	June 1 1959	July 1 1959
(thousands of actual cases)			
<b>Vegetables:</b>			
Beans, green and wax..	2,682	2,639	2,744
Beans, lima.....	519	n.a.	471
Beets.....	1,130	n.a.	1,213
Carrots.....	401	n.a.	390
Corn.....	3,515	3,706	3,347
Pumpkin and squash..	332	n.a.	343
Sauerkraut.....	544	625	564
Tomatoes.....	2,555	n.a.	2,819
Catsup, chili sauce..	2,255	n.a.	2,024
Tomato paste.....	500	n.a.	490
Tomato puree (pulp)..	492	n.a.	439
Tomato sauce.....	739	n.a.	607
<b>Fruits:</b>			
Apples.....	416	431	397
Applesauce.....	1,162	1,362	1,222
Cherries, RSP.....	353	348	296
Grapefruit segments..	421	412	403
Pineapple.....	1,673	1,960	1,863
<b>Juices:</b>			
Citrus blends.....	566	491	465
Grapefruit.....	1,036	973	907
Orange.....	1,395	1,117	1,038
Pineapple.....	1,280	1,427	1,253
Tomato.....	2,053	n.a.	2,386
<b>Fish:</b>			
Maine sardines.....	184	197	176

## Broccoli for Processing

Notice is given in the *Federal Register* of July 31 that the Agricultural Marketing Service of USDA proposes to revise U. S. standards for broccoli for processing.

The proposed revision includes a definition for scoring the defective portion of broccoli stalks, rather than the entire stalk; the descriptions "well trimmed" and "fairly well trimmed" are specifically defined; and the wording "damage by insects" is clarified.

Interested parties have until September 1 to submit written views and comments to the Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, Washington 25, D. C.

Item	Grade	Type or Style	Can Size	Quantity (pounds)	Quantity (cases)
Corn, cream style, white or golden	A (Fancy) or B (Ext. Std.)	Style I	24/303.....	11,704,000	487,607
Corn, whole grain, white or golden	A (Fancy) or B (Ext. Std.)	—	6/10..... 24/303 or 24/No. 2 van....	7,616,000 6,293,000	191,357 262,208
Blueberries, water pack	A (Fancy) or B (Choice)	Type I or II	6/10.....	1,211,000	31,619

## Look

Marilyn Kaytor, food editor, features a wide variety of canned foods in the food article, "Make A Meal of Appetizers," in the August 4 issue of *Look* magazine.

Miss Kaytor says, "'A food or drink that stimulates the desire for food.' So reads one dictionary definition of an appetizer. But, as anyone knows who has nibbled his way through the varied delicacies of a French hors d'oeuvres tray, appetizers can also satisfy the desire for food. In quantity, they are a meal in themselves.

"For summertime, this is a special blessing because nearly all appetizers come in ready-to-eat form. This means the smart summer cook can make a complete meal without getting near a hot stove, and with little more effort than it takes to open a can. The only preparation called for is strictly optional: Chill some of the foods before serving, if you wish; and for a personal touch, add a sauce."

"The open-and-serve way to easy summer eating" includes ready-to-eat appetizer combinations and ready-to-eat appetizers. The ready-to-eat combinations are four suggested menus using a wide variety of canned foods. Included are meat, fish, seafood and vegetables with other foods or in sauces. The ready-to-eat appetizers are under three headings: fish, meat and sundries. Included are fish and meat pastes and pates, smoked fish and prepared dishes. The sundries listed are a variety of vegetables and fruits.

The article is attractively illustrated with a full-page color photograph of various canned foods for use as appetizers.

## MSSA Requirements for Corn and Blueberries

Tentative requirements for canned sweet corn and canned blueberries from the 1959 pack to meet the needs of the armed services have been announced by the Military Subsistence Supply Agency. Procurement will be made by the Chicago Military Subsistence Market Center, 226 W. Jackson Blvd., Chicago 6, Ill.

## Pack of Canned Meat

The pack of canned meat and meat products processed under federal inspection during June has been reported by the Agricultural Marketing Service of USDA at 170,040,000 pounds, including quantities for defense.

	3 Lbs. & over	Under 3 Lbs.	Total
(thousands of pounds)			
Luncheon meat.....	13,282	10,604	23,886
Canned hams.....	16,026	526	16,552
Beef hash.....	530	4,623	5,153
Chili con carne.....	665	7,774	8,439
Vienna sausage.....	201	3,940	4,146
Frankfurters and wieners in brine.....	2	92	94
Deviled ham.....		700	700
Other potted and deviled meat products.....		2,163	2,163
Tamales.....	160	1,591	1,751
Sliced, dried beef.....	9	217	226
Chopped beef.....		667	667
Meat stew.....	83	4,408	4,491
Spaghetti meat products	310	11,079	11,389
Tongue (not pickled)...	47	97	144
Vinegar pickled products	676	1,193	1,869
Sausage.....		392	392
Hamburger.....	224	1,593	1,817
Soups.....	1,463	45,099	47,163
Sausage in oil.....	345	230	575
Tripe.....		318	318
Brains.....		192	192
Loins and picnics.....	2,225	60	2,291
All other products 20% or more meat.....	314	6,063	6,377
All other products less than 20% meat (ex- cept soup).....	478	23,596	24,074
Total all products.....	37,001	127,829	164,890

Columns do not add to totals shown in all cases since rounded figures are used. Amounts packed for defense are not included in these items. Total production, including quantities for defense agencies, was 170,040 thousand pounds.

## Sunset

"For any warm summer day . . . a chilled seafood platter," is a two-page illustrated feature in the August issue of *Sunset* magazine using canned fish and seafood. Sub-titled "You start with a simple can of fish . . .", the article begins, "Any warm summer day is reason enough for a new theme in lunching or supping. Here are ideas for transforming cans of fish into individual seafood platters.

"Each of these cool summer platters starts with one can of fish. We marinate it or sauce it, then add well seasoned fruits or vegetables to complement its flavor. All you need to complete each meal is a crisp bread and coffee or tea, hot or iced."

The recipes include Crab with Green Mayonnaise, Tuna with Cucumber Dressing, Salmon with Curry-Lime Dressing and Shrimp with Lemon Dressing.

## Cauliflower for Processing

The Agricultural Marketing Service of USDA has issued U. S. standards for cauliflower for processing. The standards provide for only one grade, U. S. No. 1.

The standards were published in the *Federal Register* of August 4 and will be effective in 30 days.

USDA said that cauliflower is grown on a commercial scale in 10 states, with California, New York and Texas the largest producers. Total production in 1958 was 445 million pounds.

## Status of Legislation

**Agricultural Policy Commission**—S. 2395 (Stennis) and H. R. 8335 (McIntire), to authorize such a study group, are pending in the Agriculture Committees.

**Agricultural trade development (P. L. 480)**—S. 1748 was reported by Senate Agriculture Committee July 15. Hearings on H. R. 7983 concluded by House Agriculture Committee July 29 and executive sessions began Aug. 4.

**Antitrust enforcement**—S. 716, to authorize the Attorney General to compel the production of documentary evidence for enforcement of the antitrust laws, was passed by the Senate July 29.

**Consumer expenditures**—H. R. 4420 (Zablocki), to authorize an FTC investigation of the farmer's share, is pending in House Commerce Committee.

**Co-op jurisdiction**—H. R. 200 (Mason), to transfer jurisdiction over pricing from USDA to Justice Dept., is pending in House Judiciary Committee.

**Country Life Commission**—Bills providing for the study were considered by House Agriculture Committee in May.

**Crew leader registration**—S. 1778 (Javits) was the subject of a hearing by a Senate Labor Subcommittee Aug. 7. H. R. 5930 (Kearns) is pending in the House Labor Committee. N.C.A. opposes.

**Fair trade**—H. R. 1253 was reported by House Commerce Committee June 9 and was the subject of a hearing Aug. 3 by the Rules Committee, which indicated further study to be needed. S. 1083 is pending in a Senate Commerce Subcommittee, which indicates no action this year.

**FDA artificial coloring**—H. R. 7624 is pending in House Commerce Committee and S. 2197 is pending in Senate Labor and Public Welfare Committee.

**FDA pesticides**—H. R. 6436 was cleared for the President July 29.

**Federal pre-emption**—H. R. 3 was passed by the House June 24 and referred to Senate Judiciary Committee, whose Internal Security Subcommittee held hearings on S. 3 in April and May. N.C.A. opposes application to food laws.

**Food for peace**—S. 1711 (Humphrey) is pending in Senate Foreign Relations Committee.

**Food stamps**—The Senate Agriculture Committee on August 5 approved a bill authorizing USDA to establish an experimental food stamp allotment program.

**Industrial uses**—S. 690 was passed by the Senate, with amendments, July 27. Hearings were held by House Agriculture Committee on similar bills.

**Intergovernmental relations**—S. 2026, to establish a permanent commission, was reported, with amendment, by the Senate Government Operations Committee July 27. H. R. 6904 was reported by House Government Operations Committee July 31.

**Labor-management practices**—S. 1555 was passed by Senate, with amendments, April 25. H. R. 8342 was reported by House Labor Committee July 30 and has been cleared by the Rules Committee for consideration under an open rule. H. R. 8400 (Landrum-Griffin) is pending. Debate is scheduled to begin Aug. 11.

**Marketing of potatoes**—S. 17 is pending in Senate Agriculture Committee.

**Marketing of poultry**—H. R. 1344 (Siak) and S. 430 (Engle) and similar bills are pending in Agriculture Committees. N.C.A. opposes application to canning.

**Marketing orders and parity**—H. R. 642 is pending in House Agriculture Committee.

**Marketing order regions**—H. R. 1070 is pending in House Agriculture Committee.

**Premerger notification**—S. 442 was approved by Senate Antitrust and Monopoly Subcommittee May 7 and is pending in Judiciary Committee. The House Antitrust Subcommittee has agreed to defer action until 1960.

**Price increases—advance notice**—S. 215 (O'Mahoney) was the subject of hearings by the Senate Antitrust and Monopoly Subcommittee in May. H. R. 4934 (McGovern) is pending in House Judiciary Committee.

**Price increases—public hearings**—H. R. 6263 (Reuss) was reported by House Government Operations Committee June 12. S. 2382 is pending in Senate Banking Committee.

**Raw product bargaining**—H. R. 1793 (Bow) is pending in House Judiciary Committee.

**Robinson-Patman functional discounts**—H. R. 4530 was the subject of hearings by the House Antitrust Subcommittee in June.

**Robinson-Patman good faith defense**—S. 11 was approved by the

Senate Antitrust and Monopoly Subcommittee May 7 and is pending in the Judiciary Committee. H. R. 11 is pending in House Judiciary Committee. N.C.A. opposes.

**State taxation of interstate commerce**—The Senate Finance Committee in executive session Aug. 6 ordered a clean bill reported. The House Judiciary Committee has appointed a special study subcommittee which has announced that hearings will not be held until October or November.

**Unemployment compensation**—H. R. 7177 (Mills) and H. R. 7178 (Simpson) are pending in the House Ways and Means Committee, which has concluded hearings.

**Wage-Hour**—S. 1046 (Kennedy) was approved, with amendments, by Senate Subcommittee on Labor July 10, and is presumably being redrafted for consideration by the Labor Committee. N.C.A. opposes changes in overtime exemptions.

**Wage-hour agricultural labor**—S. 1085 (McNamara), to extend coverage, was the subject of a hearing by the Senate Labor Subcommittee Aug. 7.

**Wage-hour child labor**—S. 2141 (McNamara), to eliminate the exemption, was the subject of a hearing by the Senate Labor Subcommittee Aug. 7.

**Waste disposal facilities**—H. R. 322 (Byrnes) is pending in House Ways and Means Committee.

## FISHERIES LEGISLATION

**Construction differential subsidy**—H. R. 5421, with amendments, was reported by House MM&F Committee Aug. 5. S. 2338 was the subject of hearings by the Senate Fisheries Subcommittee in July.

**Fisheries Assistance Act (loans)**—Bills are pending in Senate Commerce Committee and House MM&F Committee.

**Fishermen's Protective Act**—S. 971 is pending in Senate Commerce Committee.

**Mortgage and loan insurance**—S. 2342 is pending in the Senate Fisheries Subcommittee. Similar bills are pending in House MM&F Committee.

**Polluted shellfish**—H. R. 1244 (Colmer) is pending in House Ways and Means Committee and S. 2112 (Jackson and others) is pending in Senate Finance Committee.

**Salmon conservation**—S. 502 was the subject of hearings by the Senate Fisheries Subcommittee in April and May. H. R. 4293 was the subject of a hearing by the House Fisheries Subcommittee in May.

**Salmon predator**—S. 1264 was passed by the Senate, with amendment, July 6 and is pending in House Fisheries Committee.

**Tuna quotas**—H. R. 443, H. R. 447, and H. R. 673 are pending in House Ways and Means Committee.



### FDA Issues Order on Canned Pea Standards

The Food and Drug Administration has issued an order amending the standard of identity for canned peas to permit the use of green or red peppers, onions, and garlic, which may be dried, as optional ingredients.

The order was published in the *Federal Register* of July 31 and will be effective 60 days later, except as to any of its provisions that may be stayed by the filing of objections within 30 days. The FDA will announce the filing of objections or the lack of objections.

Following is the text of the FDA order as published in the *Federal Register* of July 31:

#### TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

##### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

##### PART 51—CANNED VEGETABLES; DEFINITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER

##### CANNED PEAS; ORDER AMENDING STANDARD OF IDENTITY

In the matter of amending the standard of identity for canned peas.

A notice of proposed rule making was published in the *Federal Register* of May 20, 1959 (24 F. R. 4059), setting forth a proposal by the California Packing Corporation, 215 Fremont Street, San Francisco, California, to amend the standard of identity for canned peas to provide for using red peppers and dried forms of peppers, onions, and garlic as optional seasoning ingredients. The notice invited all interested persons to submit comments on the proposal. No comments were received.

On the basis of the relevant information available, it is concluded that it will promote honesty and fair dealing in the interest of consumers to adopt the amendments proposed. Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended, 70 Stat. 919; 21 U. S. C. 341, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F. R. 1045, 23 F. R. 9500): *It is ordered*, That the standard of identity for canned peas (21 CFR and 21 CFR, 1958 Supp., §1.1) be amended as set forth below:

1. The section headnote for §51.1 is amended to read: §51.1 *Canned peas; identity; label statement of optional ingredients.*

2. In paragraph (d), subparagraphs (1), (3), and (4) are amended to read:

(d) \* \* \*

(1) Green peppers or red peppers, which may be dried.

\* \* \* \* \*

(3) Onions, which may be dried.

(4) Garlic, which may be dried.

3. In paragraph (f), subparagraphs (1), (5), and (8) are amended to read:

(f)(1) The label shall name the optional pea ingredient present by use of the word or words "Early" or "June" or "Early June," "Sweet" or "Sweet Wrinkled" or "Sugar," "Dried Early" or "Dried June" or "Dried Early June," "Dried Sweet" or "Dried Sweet Wrinkled" or "Dried Sugar." If one or more of the optional seasoning ingredients specified in paragraph (d) of this section are used, the word "Seasoned" may immediately precede the name of the optional pea ingredient.

\* \* \* \* \*

(5) If one or more of the optional seasoning ingredients specified in paragraph (d) of this section are used, the label shall bear the statement "Seasoned with . . . . .," the blank being filled in with the name "green peppers," "dried green peppers," "red peppers," "dried red peppers," "mint leaves," "onions," "dried onions," "garlic," "dried garlic," "horseradish," or a combination of these names, as may be appropriate. The word "dehydrated" may be used in lieu of the word "dried."

\* \* \* \* \*

(8) Wherever the name "peas" appears on the label so conspicuously as

to be easily seen under customary conditions of purchase, the words and statements specified in this paragraph, showing the optional ingredients present, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the specific varietal name of the peas may so intervene, and if one or more of the optional seasoning ingredients specified in paragraph (d) of this section are used, the word "seasoned" may so intervene.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from date of its publication in the *Federal Register* file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, Health, Education, and Welfare Building, 330 Independence Avenue SW., Washington 25, D. C., written objections thereto. Objections shall show where in the person filing will be adversely affected by the order, shall specify with particularity the provisions of the order deemed objectionable and the grounds for the objections, and shall request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

**Effective date.** This order shall become effective 60 days after its publication in the *Federal Register*, except as to any provision that may be stayed by the filing of objections. Notice of filing of objections, or the lack thereof, will be announced by publication in the *Federal Register*.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies sec. 401, 52 Stat. 1046; 21 U. S. C. 341)

Dated: July 27, 1959.

[SEAL]

GEO. P. LARRICK,  
Commissioner of Food  
and Drugs.

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